

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SENATOR JONATHAN LINDSEY,
SENATOR JAMES RUNESTAD,
REPRESENTATIVE JAMES DESANA,
REPRESENTATIVE RACHELLE SMIT,
REPRESENTATIVE STEVE CARRA,
REPRESENTATIVE JOSEPH FOX,
REPRESENTATIVE MATT MADDOCK,
REPRESENTATIVE ANGELA RIGAS,
REPRESENTATIVE JOSH SCHRIVER,
REPRESENTATIVE NEIL FRISKE, and
REPRESENTATIVE BRAD PAQUETTE,

Plaintiffs,

v

GRETCHEN WHITMER, in her official
capacity as Governor of Michigan, or her
successor, JOCELYN BENSON, in her
official capacity as Michigan Secretary of
State, or her successor, and JONATHAN
BRATER, in his official capacity as Director
of Elections, or his successor

Defendants.

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No. 1:23-cv-01025

HON. JANE M. BECKERING

MAG. PHILLIP J. GREEN

**DEFENDANTS' MOTION TO
DISMISS**

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DEFENDANTS' MOTION TO DISMISS

Defendants Governor Gretchen Whitmer, Secretary of State Jocelyn Benson and Director of the Bureau of Elections Jonathan Brater, by their attorneys, move for dismissal of Plaintiffs' complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (6) for the reasons set forth fully in the accompanying brief.

Plaintiffs have not been authorized by the Michigan legislature to represent it in this action and the Sixth Circuit has held that individual legislators—such as Plaintiffs here—lack standing to raise constitutional challenges on behalf of legislative bodies. Nor do they have standing to sue in their capacities as voters or taxpayers. Thus, Plaintiffs lack standing to bring their Election Clause claim against Defendants. Plaintiffs likewise fail to state a claim for relief against Defendants where the U.S. Supreme Court has repeatedly held that state legislative authority under the Elections Clause is subject to the constraints imposed by the people in their state constitution. For these reasons, Plaintiffs' claims must be dismissed for lack of standing and for failure to state a claim upon which relief may be granted.

On January 8, 2024, the undersigned counsel contacted Plaintiffs seeking concurrence with this motion. Plaintiffs' counsel responded that they did not concur in the motion.

Respectfully submitted,

s/Heather S. Meingast

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Dated: January 8, 2024

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2024, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

s/Heather S. Meingast

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